

Chevy Chase Village Board of Managers

September 10, 2007

BOARD OF MANAGERS

Douglas B. Kamerow, Chair	Present
David L. Winstead, Vice Chair	Absent
Susie Eig, Secretary	Present
Gail S. Feldman, Treasurer	Present
Betsy Stephens, Assistant Treasurer	Present
Peter M. Yeo, Board Member	Present
Robert L. Jones, Board Member	Present

STAFF

David R. Podolsky, Legal Counsel	Present
Ronald M. Bolt, Assistant Legal Counsel	Present
Geoffrey B. Biddle, Village Manager	Present
Roy A. Gordon, Police Chief	Absent
Adventino Dasilva, Police Sergeant	Present
Shana R. Davis-Cook, Manager of Administration	Present
Michael W. Younes, Administrative Assistant	Present

Dr. Douglas B. Kamerow, Chair of the Chevy Chase Village Board of Managers, called the meeting to order at 7:33 p.m. Mr. Winstead was absent.

Approval of Minutes from the July 9, 2007 Board Meeting (Regular and Executive Sessions)

Ms. Feldman and Ms. Eig submitted changes to the minutes prior to the meeting.

Ms. Feldman made a motion to approve the amended minutes of the July 9, 2007 Board Meeting (Regular and Executive Sessions). Mr. Yeo seconded the motion. Dr. Kamerow, Ms. Eig, Ms. Feldman and Mr. Yeo voted in favor of the motion. Ms. Stephens and Mr. Jones did not vote as they were absent from the July 9, 2007 meeting. The motion passed.

Treasurer's Report

The Treasurer's report was distributed to the Board prior to the meeting. Ms. Feldman noted that there was an error in the originally circulated report, but that revised versions were circulated to Board members at the meeting. Discussion followed.

Committee Reports

Building Facilities Commission

Mary Anne Tuohey, Chair of the Building Facilities Commission, stated that the Fall Class Session would begin on Tuesday, September 11, 2007 and stated that there was no report made from the Committee on Children, Youth & Families or the Toddlers' Group. Discussion followed.

Wohlfarth Property

Brenda Sandberg, Legacy Open Space Program Manager for the Montgomery County Department of Park and Planning of the M-NCPPC was in attendance and stated that the Wohlfarth Property (WP), a two-acre property located between Grove Street and Western Avenue, had been acquired in 2002 with 75% Legacy Open Space (LOS) and 25% Village contributions towards the total purchase cost. The property had been privately owned and the house was occupied pursuant to a life estate agreement. While the life estate has now ended, the property remains occupied by survivors of the deceased. LOS has given the occupants the time needed to handle the personal effects and to vacate the property and has asked the occupants to contact LOS once they have vacated the property. Ms. Sandberg stated that she felt it is time to begin formulating possible uses of the property within the constraints of the Memorandum of Understanding between the Village and LOS, which was entered into in 2002. She outlined the process: formulate an operation and use plan with an internal team of relevant parties including Park and Planning, parks management, landscape architect to assist with the design, transportation and resource experts, property management staff to evaluate the house to determine whether to maintain it or to tear it down, and Park Police to assess security and visibility issues. Ms. Sandberg suggested setting up a Liaison Committee comprised of Village residents.

Ms. Sandberg further explained that the property must remain a low-key urban open space park. She stated that this description does not generally include such things as playground equipment or ball courts. Ms. Sandberg said that LOS would work with the Village concerning the use of the building, but that if the house is to remain, the LOS' position would be for the building to be used in connection with the operation of the property and not left empty. Ms. Sandberg explained that under the terms of the MOU the use plan is negotiable and that it is up to LOS and the Village to reach a consensus on use of the building and property, and that the needs and desires of the surrounding Village and County residents would be weighed in the decision-making process.

Mr. Yeo stated that several residents had expressed a desire to install a "tot lot" on the property. Ms. Sandberg replied that this was possibly a feasible option depending upon the scale of the equipment.

Kate Hayes of 5407 Center Street stated her concerns in regard to the safety of children due to the property's proximity to Western Avenue, and asked if a fence could be erected on the Western Avenue side of the property if a "tot lot" was indeed to be installed on the site. Ms. Sandberg replied that these individual concerns could be weighed at a meeting called to discuss use of the property. Ms. Hayes added that she desired to see the installation of a path through the property for pedestrian use. Discussion followed.

Dr. Kamerow thanked Ms. Sandberg for her attendance and comments on the matter. **The Board directed Village Counsel to draft annexation documents to formally annex the WP into the Village for action at its November regular meeting. The Board also directed staff to include an article in the *Crier* advising residents that at its regular meeting in November, the Board would take action to annex the WP into the Village, and would consider how to proceed with the formulation of possible uses of the property.**

Building Regulations Survey Results and Strategy Report Briefing

Norè Winter of *Winter & Company* was in attendance and reviewed the results of the Building Regulations survey and final strategy report. Mr. Winter stated that 45% of Village residents responded and he outlined specific findings from the survey.

Betty Tubbs of 5509 Montgomery Street stated that she felt there was no way to control water runoff during new construction if the property had a severe slope. Mr. Winter replied that a modification in the regulations could require additional measures to alleviate additional water runoff due to a property's natural sloping.

Mr. Winter stated that now that the first phase of the Building Regulations Review was complete, the next phase in the process would be to assess the current average floor area ratios (FAR) in the Village. He said that existing FARs could be determined through in-home surveys, field estimates, or calculations using architectural drawings on file with the Village office. A ratio or pro-rated formula could be developed based on the FAR data collected.

Mr. Jones asked if there were other communities using FARs in the calculations for their regulations. Mr. Winter replied that regulation-based FARs are a well established concept and that smaller communities are applying FARs to scale down building massing. Mr. Podolsky added that FARs are used in CBD zones, but not for single-family residential areas within Montgomery County.

Penny Mallory of 17 Magnolia Parkway asked if FARs are primarily used in commercial or residential construction. Mr. Winter replied that they are primarily used in commercial construction. Ms. Mallory said that it seemed to her that FARs are more applicable to residential developers when planning new, individual communities and that they did not seem feasible in the Village given its building diversity. Mr. Winter replied that FARs provide greater flexibility within a specified building envelope. Ms. Stephens commented that one must first determine the high-end of the FAR spectrum so that several Village homes are not precluded from future renovations.

Peter Kilborn of 4007 Oliver Street questioned the validity of voluntary guidelines, which he felt builders would ignore and which he felt would invite abuse and controversy. Mr. Winter stated that once presented with an alternative, there would be residents/builders who choose to comply with the voluntary guidelines. Mr. Kilborn stated that that these voluntary guidelines should be formed as actual regulations. Ms. Stephens and Mr. Yeo concurred. Ms. Stephens stressed the importance of determining current calculations for FARs, building heights and lot coverage prior to forming regulations.

Alan Berlow of 9 East Melrose Street asked why "unrealistic" models were used. Mr. Winter replied that these models provide a sense of the mass and direction that residents preferred, not a calculation that applies as a regulation. The next phase would be to assess how to determine that calculation.

Mr. Podolsky explained that the moratorium, which is currently set to expire on October 31, 2007, could be extended; however, the Board must be able to defend challenges to whether due diligence was exercised to implement new regulations in an expedited manner. Mr. Podolsky stated that the Board could also allow the moratorium to expire while proceeding to draft new regulations, but that there may be applicants who would try to get projects approved in the interim. Ms. Feldman asked Mr. Podolsky how long it would take him to draft new regulations once the Board formulated what it wanted to accomplish through the new regulations. Mr. Podolsky outlined the variables to drafting detailed regulations and explained that the length of time needed to draft new regulations would be determined by the Board's determination of how and what it wants to regulate. He estimated that drafting would take approximately a month or more, depending upon these factors. He also stated that Montgomery County must have 30-days to review proposed ordinances prior to the public hearing. Discussion followed.

The Board directed Counsel to draft a Resolution for review and vote at the October 9, 2007 Board meeting. The Resolution would extend the Moratorium for an additional three (3) months. The Board also requested a proposal from *Winter & Company* for the next phase of the regulations review process, including development of dimensional standards for floor area ratios, lot (impervious surface) coverage and wall plate height, and to provide model language for basic standards.

Note: Ms. Feldman left at 9:40 p.m.

Decisions on Previous Appeals

None.

Appeals

A-5282: Mr. and Mrs. Christopher S. Abell, 14 West Irving Street--(a) Removal of one existing gable and replacement with new rotated gable that will encroach 16.1 inches into the 25-foot front building restriction line. The owners' architect, George Myers of GTM Architects, and Mr. and Mrs. Christopher S. Abell, attended and presented their request. Discussion followed.

Ms. Eig made a motion to direct Counsel to draft a decision approving the request for the (a) removal of one existing gable and replacement with new rotated gable that will encroach 16.1 inches into the 25-foot front building restriction line. Mr. Jones seconded the motion. Dr. Kamerow, Ms. Eig, Mr. Yeo and Mr. Jones voted in favor of the motion. Ms. Stephens abstained. The motion passed.

A-5282: Mr. and Mrs. Christopher S. Abell, 14 West Irving Street--(b) Remodel and renovate an existing front porch that encroaches 4.9 feet into the 25-foot front yard setback. The owners' architect, George Meyers of GTM Architects, and Mr. and Mrs. Christopher S. Abell, attended and presented their request. Discussion followed.

Ms. Eig made a motion to direct Counsel to draft a decision approving the request to (b) remodel and renovate an existing front porch that encroaches 4.9 feet into the 25-foot front yard setback, provided the modified stoop does not project any farther into the front

setback than the existing stoop. Mr. Yeo seconded the motion. Dr. Kamerow, Ms. Eig, Mr. Yeo and Mr. Jones voted in favor of the motion. Ms. Stephens abstained. The motion passed.

Old Business

Speed Camera Update: Mr. Biddle stated that the fixed pole cameras have been delayed, but could be in place within a couple of months. State Highway Administration staff has instructions to issue permits for the canned cameras along Connecticut Avenue. Mr. Biddle added that there is an existing concrete pad on Connecticut Avenue on which a camera would be placed. Mr. Biddle explained that soon two canned cameras would be delivered by the vendor, which would begin a \$6,000 monthly lease cost for the Village. Mr. Biddle stated that the canned cameras could be operational by September 30, 2007. Discussion followed.

Brookville Road: Ms. Eig commented that she felt it would be better for pedestrians if the proposed walkway/sidewalk cut through the park at the intersection of Brookville Road/Broad Branch Road and Oxford Street, as opposed to running along the edge of the park. She said that this would relieve pedestrians from having to walk directly next to the roadway (Brookville Road). Mr. Biddle and Dr. Kamerow stated that another meeting of the Brookville Road Working Group would be held within the next month.

Staffing Assessment Report: Mr. Biddle explained that an independent firm was hired by the Village to assess the Village's civil service organization, and that a report from the firm was circulated to Board members prior to the meeting. The Board stated that it would like for a panel of residents, including the Personnel Commission, to evaluate the assessors' findings. The Board created an ad hoc Committee to meet with the assessors, review the analysis and report back to the Board with its recommendations at the Board's regular October meeting. The Board specifically named Pat Baptiste, former Board Chair and member of the Personnel Commission; Thomas G. Schendt, member of the Personnel Commission; George L. Kinter, former Board Chair; Samuel A. Lawrence, former Treasurer and current Chair of the Budget Committee; and David Winstead, Vice-Chair of the Board, as members of the aforementioned Committee. The Board directed Mr. Biddle to collect additional staffing and workload data for submission to the ad hoc Committee. Dr. Kamerow asked Board members to email their specific comments regarding the assessment report to Mr. Biddle by the end of the week for review by the ad hoc Committee. Discussion followed.

New Business

Meeting Date Changes: Due to the Columbus Day holiday, the Board unanimously agreed to reschedule the October Board meeting to October 9, 2007.

Due to the Veterans Day holiday, the Board agreed to reschedule the November Board meeting for November 13, 2007.

Code Modification Process: Mr. Podolsky explained that modifications to the Village's Building Code require advance notice to Montgomery County. The Village must provide the

County Council proposed modifications at least 30 days prior to the Board's Public Hearing to review the amendment(s) and provide comment. Mr. Podolsky stated that he does not recall previously receiving feedback from the County, but wanted the Board to be aware of the requirement as it proceeds with consideration of changes through the building regulations review process. Discussion followed.

Vehicle Policy and Procedure: Mr. Biddle explained that there is one employee who has a Village-issued vehicle and another Village employee who receives a vehicle allowance. Mr. Biddle stated that the new Section 23 of the Chevy Chase Village Employee Manual, entitled "Vehicle Policy and Procedure", provided a policy for the use of Village vehicles provided for on-call employees' commutes to and from the Village. The draft policy was provided to the Board for their comment only. Mr. Podolsky explained the tax ramifications to Village employees issued vehicles for commuting purposes and said that this policy provides for minimum tax consequences. Discussion followed.

Ms. Eig submitted the following changes:

Page 2, Section B., 5.—change "gasoline" to "fuel".

Page 3, Section C., 2.—Change "Family members" to "Non-employee family members".

Page 3, Section C., 3.—Change "motor vehicle operator's license and of the class required for the" to "motor vehicle operator's license of the class required for the".

Page 3, Section C., 5.—Add the word "promptly" before the phrase "to their supervisor".

Page 3, Section C., 6.—Add the word "legal" before the word "locations".

Satellite Dish Discussion

Mr. Biddle explained that technicians with DirectTV had advised the owners of 5501 Montgomery Street that a satellite dish could not be installed on the house's roof because it could not receive a signal due to obstruction by surrounding trees. The homeowners contacted Mr. Biddle for permission to alternatively place the satellite dish on a proposed fence post along the west side (Montgomery Street front yard) of the property. This location would be in violation of the Village's Building Code.

Mr. Podolsky explained the regulations under the Village Code. He also explained that Federal law requires jurisdictions to allow property owners to install satellite dishes at a location that can receive service in order to provide vendor competition. If the dish is freestanding, it requires a variance from the Board of Managers. The variance requires that the Board find that the owners would endure hardship if the request was denied. Concerning the installation of satellite dishes in relation to Federal law, Mr. Podolsky stated that the Board needed to determine if it would allow the Village Manager to grant exceptions administratively, or to require a formal variance submission to the Board of Managers.

Mr. Podolsky further explained that the Americans with Disabilities Act (ADA) requires jurisdictions to allow the construction/installation of wheelchair ramps regardless of Code or covenant setbacks. Concerning compliance with ADA requirements, Mr. Podolsky stated that the Board needed to determine if it would allow the Village Manager to grant exceptions administratively, or to require a formal variance submission to the Board of Managers. Discussion followed.

The Board agreed to require a formal variance submission to the Board of Managers for the installation of satellite dishes.

The Board agreed to allow the Village Manager to grant administrative exceptions for requests for structures within Code or covenant setbacks in compliance with ADA requirements.

Purchase Authorization

- (1) New Computer Server.** Mr. Biddle requested authorization to purchase a new server from *DELL* in the amount of \$10,262. **The Board unanimously approved the purchase of a new server from DELL in the amount of \$10,262.**
- (2) All-Terrain Vehicle (for Use with Speed Cameras).** Mr. Biddle requested authorization to purchase a small format all-terrain vehicle, which would be used by the police department to transport the Village's proposed speed cameras. The vehicle would be purchased through a Montgomery County contract in the amount of \$16,394. **The Board unanimously approved the purchase of an all-terrain vehicle in the amount of \$16,394.**

Chairman's Report

None.

Manager's Report

Brookville Road Re-Paving: Mr. Biddle stated that State Highway Administration crews would re-pave Brookville Road in front of the Brookville Road Park the week of September 17, 2007. He added that Mr. Younes would see if the crews could also re-pave the intersection at Primrose Street.

Exterior Lights from Chevy Chase Center: Mr. Biddle stated that Chevy Chase Center would be replacing twenty-six of the two-year old exterior lights on the site. The old lights are the same as those located within the Buffer and the Chevy Chase Land Company would be willing to sell them to the Village for a reduced price of \$.30 on the dollar. Two additional lights are currently needed in the Buffer and the remaining lights would be stored until they might eventually be utilized on the Wohlfarth property. Discussion followed. **The Board directed Mr. Biddle to purchase two lights for use in the Buffer.**

Chevy Chase Center: Mr. Biddle explained that representatives for *MaxMara* had submitted a minor site plan amendment request to the Planning Board for designation of an 1,100 square foot area for a private dining area within Farr Park, the public courtyard located between the two retail structures abutting Wisconsin Avenue. Mr. Biddle further explained that because this is a minor site plan amendment, it was classified as a consent appeal and that if no one requested a hearing, it would be approved as uncontested by the Park and Planning Commission. Dr. Kamerow stated that due to noise concerns and because of the park's original designation as an open passive use-park, he would like the Village to submit a request for a hearing before the Park and Planning Commission. He added that a hearing would allow residents to get additional

information regarding the proposal. Mr. Podolsky added that the Village fought for the Farr Park public amenity, and that it would set a bad precedent to have that public amenity taken away. Discussion followed.

The Board directed Mr. Biddle to convey the Board's concerns to the Park and Planning Commission and to request a hearing on the matter.

Police Report

The monthly Police Report was distributed to the Board prior to the meeting. No discussion followed.

Ms. Stephens made a motion to adjourn the meeting. Dr. Kamerow seconded the motion. Dr. Kamerow, Ms. Eig, Ms. Stephens, Mr. Yeo and Mr. Jones voted in favor of the motion. The motion passed. The meeting adjourned at 11:07 p.m.

Secretary, Chevy Chase Village Board of Managers

Final.